Floyd v. Doubleday et al Doc. 17 Att. 1

EXHIBIT “A”

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JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

JUN 14 2006

FILED CLERK'S OFFICE

RELEASED FOR PUBLICATION

DOCKET NO. 1771

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE "A MILLION LITTLE PIECES" LITIGATION

BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D. LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT L. MILLER, JR., KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL

TRANSFER ORDER

This litigation currently consists of ten actions listed on the attached Schedule A and pending in five districts as follows: three actions each in the Northern District of Illinois and the Southern District of New York, two actions in the Central District of California, and an action each in the Southern District of Ohio and the Western District of Washington. Defendants Random House, Inc., and Doubleday & Co., Inc., move the Panel, pursuant to 28 U.S.C. § 1407, for an order centralizing this litigation in the Southern District of New York or, alternatively, the Northern District of Illinois.[1] No party opposes centralization. Defendant James Frey (Frey) and plaintiffs in the three Southern District of New York actions support the motion, although one of the plaintiffs only supports transfer to the Southern District of New York. Plaintiff in a Central District of California action (*Rubenstein*) supports transfer to the Southern District of New York or, alternatively, the Central District of California. Plaintiffs in three Northern District of Illinois actions and a potential tag-along action also pending there, along with the plaintiff in the Southern District of Ohio action, prefer transfer to the Northern District of Illinois.

On the basis of the papers filed and hearing session held, the Panel finds that these ten actions involve common questions of fact, and that centralization under Section 1407 in the Southern District of New York will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share allegations concerning the book "A Million Little Pieces" written by defendant Frey. Plaintiffs assert, among other things, i) that the book contained material fabrications, and ii) that advertisements and marketing concerning the book were false and misleading, inasmuch as the book was marketed as a work of nonfiction. Plaintiffs seek to recover from defendants on various state statutory and common law claims, such as negligence, consumer fraud, breach of contract, and unjust enrichment. Centralization under Section 1407 is necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel and the judiciary.

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[1] Defendants initially sought to transfer twelve actions, but an Eastern District of Michigan action and a Southern District of New York action were later dismissed. Panel consideration of those actions is thus moot. Additionally, the Panel has been notified of an additional action pending in the Northern District of Illinois. This action and any other related actions will be treated as potential tag-along actions. *See* Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

We are persuaded that the Southern District of New York is an appropriate transferee forum for this litigation. The Southern District of New York is a likely source of relevant documents and witnesses, because the publishing defendants and individual defendants are located there. Further, this district enjoys the support of several plaintiffs and defendants.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions pending outside the Southern District of New York and listed on Schedule A are transferred to the Southern District of New York and, with the consent of that court, assigned to the Honorable Richard J. Holwell for coordinated or consolidated pretrial proceedings with the actions already pending in that district and listed on Schedule A.

FOR THE PANEL:

Wm. Terrell Hodges
Chairman

SCHEDULE A

MDL-1771 -- In re "A Million Little Pieces" Litigation

Central District of California

Sara Rubenstein v. James Frey, et al., C.A. No. 2:06-1029
Garrett Hauenstein, et al. v. James Frey, et al., C.A. No. 2:06-1030

Northern District of Illinois

Ann Marie Strack v. James Frey, et al., C.A. No. 1:06-933
Pilar More v. James Frey, et al., C.A. No. 1:06-934
Marcia Vedral v. James Frey, et al., C.A. No. 1:06-935

Southern District of New York

Michele Snow v. Doubleday, et al., C.A. No. 1:06-669
Jimmy Floyd v. Doubleday, et al., C.A. No. 1:06-693
Diane Marolda v. James Frey, et al., C.A. No. 1:06-1167

Southern District of Ohio

Jill Giles v. James Frey, et al., C.A. No. 1:06-58

Western District of Washington

Shera Paglinawan, et al. v. James Frey, et al., C.A. No. 2:06-99

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

JUN 26 2006

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BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE "A MILLION LITTLE PIECES" LITIGATION

Sara Brackenrich v. James Frey, et al., N.D. Illinois, C.A. No. 1:06-1021

CONDITIONAL TRANSFER ORDER (CTO-1)

On June 14, 2006, the Panel transferred seven civil actions to the United States District Court for the Southern District of New York for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. With the consent of that court, all such actions have been assigned to the Honorable Richard J. Holwell.

It appears that the action on this conditional transfer order involves questions of fact which are common to the actions previously transferred to the Southern District of New York and assigned to Judge Holwell.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), this action is transferred under 28 U.S.C. § 1407 to the Southern District of New York for the reasons stated in the order of June 14, 2006, ____F.Supp.2d____ (J.P.M.L. 2006), and, with the consent of that court, assigned to the Honorable Richard J. Holwell.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Southern District of New York. The transmittal of this order to said Clerk shall be stayed fifteen (15) days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen (15) day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:

Jeffery N. Lüthi
Clerk of the Panel